

# Notice of Allowability

Application No.

10/619,340

Examiner

Katherine W Mitchell

Applicant(s)

CLINCH ET AL.

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6/28/2004.
2. ☒ The allowed claim(s) is/are 1-8 10 12-17, 19-24 and 27.
3. ☒ The drawings filed on 15 June 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 6/28/2004
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date with this action.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☒ Other 7 and 8 same doc.

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

2. Authorization for this examiner's amendment was given in a telephone interview with James O'Malley on 9/21/2004

The application has been amended as follows:

**In the Claims:**

3. Claim 1 line 10 has been amended to insert after "the fastener" but before the period --, wherein said nut member is formed of a material which is harder than a material from which the cage member is formed such that said at least one stand-off of said nut member may be embedded into the cage member upon said nut member receiving the fastener--.

4. Claim 14 line 17 has been amended to insert after "fastener" but before the period --, wherein said nut member is formed of a material which is harder than a material from which the cage member is formed such that said at least one stand-off of said nut member may be embedded into the cage member upon said nut member receiving the fastener--.

5. Claim 20 lines 11-12 have been amended to add --and deforming-- between "embedded into" and "said cage member".

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6. Claims 25 and 26 have been cancelled.

### EXAMINER'S REASONS FOR ALLOWANCE

7. The following is an examiner's statement of reasons for allowance:

Applicant has clearly amended the claims such that each independent claim requires the standoffs to be embedded in the cage and the cage, not the nut, to be the deformed member (claims 1 and 14 require the nut to be of softer material than the cage; claim 21 states the "nut member being embedded into and deforming said cage member", and has provided a clear definition of embed for the record. Examiner notes that the broadest definition of "embed"

**em·bed** (əm-bèd<sup>1</sup>) also **im·bed** (im-) *verb*

**em·bed·ded**, **em·bed·ding**, **em·beds** *verb, transitive*

1. To fix firmly in a surrounding mass: *embed a post in concrete; fossils embedded in shale.*
2. To enclose snugly or firmly.
3. To cause to be an integral part of a surrounding whole.<sup>1</sup>

clearly requires the standoffs to enter into the body of the cage, such that the nut and cage are fixed together, and not merely rest atop the cage. This definition was provided with the original specification on page 20:

*The nut is engaged by a male threaded fastener which is torqued into place and the stand-offs push into the material of the cage causing the cage material to flow out of the way such that the stand-offs embed into the material of the cage without deforming the stand-offs to a flattened condition.*

This in combination with the other structures reads over the prior art of record, which could have the nut member or its projections deforming rather than the cage member.

8. Page 8 line 19 provides support for the new claims 25-27.

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9. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katherine W Mitchell whose telephone number is 703-305-6713. The examiner can normally be reached on Mon - Thurs 10 AM - 8 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Katherine W Mitchell  
Patent Examiner  
Art Unit 3677

Kwm  
9/21/04

  
**ROBERT J. SANDY**  
**PRIMARY EXAMINER**